

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

MARY ANN SIVOLELLA, et al.

Plaintiffs,

vs.

AXA EQUITABLE FUNDS  
MANAGEMENT GROUP, LLC,  
et al.,

Defendants.

**Civ. A. No. 3:11-cv-04194-PGS-DEA**

GLENN D. SANFORD, et al.

Plaintiffs,

vs.

AXA EQUITABLE FUNDS  
MANAGEMENT GROUP, LLC,  
et al.,

Defendants.

**Civ. A. No. 3:13-cv-00312-PGS-DEA**

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**STIPULATION REGARDING DAMAGE COMMENCEMENT PERIOD**

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1. Whereas, the matters of *Sivolella et al. v. AXA Equitable Life Insurance Company, at al.* (Dkt. 3:11-cv-04194) and *Sanford et al. v. AXA Equitable Funds Management Group, LLC*, (Dkt 3:13-cv-00312-PGS-DEA) are being prosecuted as consolidated matters;

2. Whereas, on April 15, 2013, Plaintiffs will file a First Amended Complaint in the *Sanford* case and a Second Amended Complaint in the *Sivolella* Case to add two additional claims in each case;

3. Whereas, all of Plaintiffs' claims in both cases arise under Section 36(b) of the Investment Company Act of 1940 ("ICA");

4. Whereas, ICA § 36(b)(3) provides that no award of damages shall be recoverable for any period prior to one year before the action was instituted. Therefore, the starting point for measuring damages is one year prior to the date the complaint was filed (hereinafter the "Damage Commencement Date");

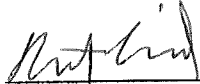
5. Whereas, the parties stipulate and agree that, with respect to the Second Amended Complaint in the *Sivolella* case, the Damage Commencement Date for the claims set forth in Counts I and II shall be July 21, 2010, and the Damage Commencement Date for the claims set forth in Counts V and VI shall be April 15, 2012<sup>1</sup>;

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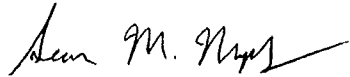
<sup>1</sup>The parties note that, with respect to the *Sivolella* matter, Plaintiff withdrew Count III of the First Amended Complaint and the Court, on September 25, 2012, dismissed Count IV of the First Amended Complaint. After the filing of the April 15, 2013 amendment, there will be four counts in each of the *Sivolella* and *Sanford* complaints. In both complaints, the first two Counts are plead in the alternative, one on behalf of the AXA Funds and one on behalf of the Advisors trust. Counts V and VI in *Sivolella* and Counts III and IV in *Sanford* are also plead in the alternative. In both matters, Plaintiffs are seeking recovery for both alleged excessive investment management fees that were paid under Investment

6. Whereas, the parties stipulate and agree that, with respect to Plaintiffs' First Amended Complaint in the *Sanford* case, the Damage Commencement Date for the claims set forth in Counts I and II shall be January 15, 2012, and the Damage Commencement Date for the claims set forth in Counts III and IV shall be April 15, 2012;<sup>2</sup>

This Stipulation is hereby entered onto between the parties by their respective counsel.



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Dated: 4/15/2013

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Management Agreements and recovery of alleged excessive administrative fees that were paid under a Mutual Funds Service Agreement.

<sup>2</sup>In consideration for Defendants consent to Plaintiffs' amendments in both cases, Plaintiffs are waving their argument they receive the benefit of the relations back doctrine with respect to the Damage Commencement Period for their claims related to Defendants' administrative fees.